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Return Date: March 11, 2002

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**FILED**

**RECEIVED**

PHILLIP C. ENGERS, WARREN J. MCFALL :  
DONALD G. NOERR, and GERALD SMIT, :  
individually and on behalf of all others :  
similarly situated, :

Plaintiffs,

vs.

AT&T and AT&T MANAGEMENT  
PENSION PLAN,

Defendants.

FEB 4 2002

FEB 04 2002

AT 8:30 M  
WILLIAM T. WALSH, CLERK

AT 8:30 M  
WILLIAM T. WALSH, CLERK

C.A. No. 98-CV-3660 (WGB)

**PLAINTIFFS' MOTION UNDER RULE 72 IN OBJECTION TO  
RULINGS SUSTAINING ATTORNEY-CLIENT PRIVILEGE**

Pursuant to Federal Rule 72(a) and Local Rule 72.1(c)(1), the named Plaintiffs and the Plaintiff class object to and appeal from Magistrate Judge Hedges' Orders dated October 3, 2001, November 30, 2001, and December 27, 2001 on attorney-client privilege to the extent they sustain Defendants' assertions of attorney-client privilege. Magistrate Judge Hedges refused to decide whether the "fiduciary exception" to attorney-client privilege applied to these documents, but instead stated that the issue could be taken up with the presiding district judge.

This Court is to review the Magistrate Judge's decisions and "set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law." Local Rule 72.1(c)(1)(A). The Plaintiff class submits that the Magistrate Judge's